



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
EMERGENCY RESPONSE BRANCH
9311 GROH ROAD, ROOM 216
GROSSE ILE, MI 48138-1697

EPA Region 5 Records Ctr.



233117

MAY 17 2005

REPLY TO ATTENTION OF:

ACTION MEMORANDUM

SUBJECT: **ENFORCEMENT ACTION MEMORANDUM** - Determination of Threat to Public Health and the Environment and Selection of a Time-Critical Removal Action at the N-Forcer Site in Dearborn, Wayne County, Michigan (Site ID #B55P)

FROM: Brian Kelly, On-Scene Coordinator *Brian Kelly for Bk*
Emergency Response Section 1

TO: Richard C. Karl, Director
Superfund Division

THRU: Linda Nachowicz, Chief *Linda Nachowicz*
Emergency Response Branch

I. PURPOSE

The purpose of this Memorandum is to document the determination: (1) of an imminent and substantial threat to public health, welfare, and (2) of the need to conduct a time-critical removal action to abate that threat on the railroad tracks adjacent to the former W.R. Grace facility at 14300 Henn Street, Dearborn, Michigan. The railroad tracks are owned by CSX Transportation, Inc. (CSXT). It is believed CSXT or its predecessor transported the asbestos-tainted vermiculite to the former W.R. Grace facility. Because the railroad track property contains contamination associated with the former W.R. Grace facility originally defined as the N-Forcer Site, the railroad tracks are now also considered part of that Site.

The proposed removal action is necessary to mitigate the immediate threat to public health posed by the presence of fibrous amphibole Libby Asbestos (LA) in all its forms. The LA contamination is the result of, but not limited to, expansion of LA-tainted vermiculite at the N-Forcer site and spills from rail transportation of that vermiculite.

The response action proposed will mitigate the threats by: identifying surface and subsurface areas contaminated with LA; and removing LA from surface and subsurface areas where the LA is present at levels above 1% or which may pose an inhalation hazard.

The presence of LA at and near the surface at the concentrations documented, in an area with potential access by the public where train traffic may reaerosolize the LA, justifies classifying this as a time-critical removal action.

Asbestos removals are nationally significant. U.S. EPA is following Agency for Toxic Substances and Disease Registry (ATSDR), Michigan Department of Community Health (MDCH), and Michigan Department of Environmental Quality (MDEQ) guidance on cleanup levels. This action is an extension of the Fund-lead removal action for which U.S. EPA Headquarters concurrence was obtained. The N-Forcer Site is not on the National Priorities List.

II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID #MIN 000 508 756

A. Site Description and Background

The former W.R. Grace & Company (WRG) Dearborn plant (also known as the Henn Street Facility, Dearborn plant, and N-Forcer Site) is located at 14300 Henn Street, Dearborn, Wayne County, Michigan, 48126. For the purposes of this Enforcement Action Memo background information will concentrate on information relevant to the railroad tracks. Further information on W.R. Grace operations is available in the February 27, 2005, Action Memorandum for the N-Forcer Site.

According to WRG shipping records, the Dearborn plant processed about 206,000 tons of LA-tainted vermiculite ore from Libby, Montana. The vermiculite was shipped to the plant by rail. Over time, it became known that vermiculite ore mined from Libby was contaminated with asbestos fibers, including the amphibole asbestos varieties tremolite and actinolite, as well as the related fibrous asbestiform minerals winchite, richterite, and ferro-edenite. In this document, the asbestos in Libby vermiculite, in all its forms, is referred to as LA.

Studies throughout the 1980s indicated that vermiculite workers showed increased rates of asbestos-related respiratory diseases. The findings at Libby and sites processing ore from Libby provided the impetus for investigating the Dearborn Site, as well as other sites across the nation that received asbestos-contaminated vermiculite from the Libby mine.

The rail line owned by CSXT is located immediately adjacent to the north and east of the former W.R. Grace operations. The LA contamination identified and removed from the former W.R. Grace facility extended to and beyond the boundary of CSXT's rail line property. CSXT's rail line and spur lines were also used for loading and unloading of materials contaminated with LA.

B. Site Visits and Sampling

On September 27, 2002, staff from ATSDR, U.S. EPA, and MDCH visited the N-Forcer Site as part of ATSDR's National Asbestos Exposure Review. During this visit, staff observed vermiculite ore on the ground on the north and southeast areas of the Site. At the time, staff did not know the precise property line separating the current owner Die, Mold & Automation Components, Inc. (DMACI) and CSX Transportation Inc. (CSXT).

These findings led ATSDR to ask U.S. EPA to take several on-site soil samples for asbestos. On January 14, 2003, U.S. EPA collected four composite and two grab soil samples from around the property. Two of these samples SC-3 and GB-1 were inadvertently taken on CSXT property. Analysis of these samples showed concentrations of tremolite between 1.9% and 2.6%. In addition, the field staff documented visible tremolite in a wide area of what is now known to be CSXT property. These finds were documented in the *Site Assessment Report for the N-Forcer Site*, dated December 4, 2003. The report widely attributes the word tremolite to what is more accurately called Libby Amphiboles.

C. Discussions with CSXT Prior to U.S. EPA Removal

On July 9, 2003, a General Notice of Potential Liability was sent to the property owner CSXT.

On August 29, 2003, CSXT responded to the General Notice of Potential Liability denying liability for owning tracks on the N-Forcer Site. (CSXT subsequently acknowledged that it does own the tracks adjacent to the N-Forcer Site where U.S. EPA samples and photographic documentation show LA.)

On November 12, 2004, CSXT sampled the railroad property adjacent to the N-Forcer Site. During a conference call on November 16, 2004, CSXT reported to U.S. EPA the findings from the first round of samples, which did not detect LA. During the call U.S. EPA told CSXT that sample results from U.S. EPA's Site Assessment showed LA at levels between 1 and 3 percent immediately next to CSXT's property (at locations later determined to actually be *on* CSXT property). After several emails and phone calls, on February 18, 2005, CSXT forwarded the remaining sample results, which showed one sample containing asbestos.

D. Discussions with CSXT During U.S. EPA Removal

On April 4, 2005, U.S. EPA initiated a removal action at the N-Forcer Site. During the first week of site work, U.S. EPA completed a property survey that showed two of the samples taken during the Site Assessment were actually, inadvertently, taken just inside the CSXT property boundary.

On April 7, 2005, U.S. EPA sent a letter to CSXT following up on the previous Notice Letter and several phone calls and e-mails asking CSXT to perform a cleanup on CSXT property, U.S. EPA also transmitted photographs showing the contamination and a copy of the 2003 Site Assessment.

On April 11, 2005, U.S. EPA requested access to CSXT property. In addition, a sample taken by U.S. EPA of material accessible from the former W.R. Grace property of material on CSXT's property showed 100% richterite.

On April 12, 2005, CSXT agreed to perform a cleanup if U.S. EPA would coordinate transportation and disposal of the CSXT material with U.S. EPA's on-going work on the adjacent property. On April 18, 2005, CSXT's contractor ARCADIS visited the site and was shown by U.S. EPA visible asbestos on CSXT's property.

On April 21, 2005, U.S. EPA sent CSXT an email asking for CSXT to submit to U.S. EPA a work plan by April 28, 2005. On April 29, 2005, CSXT sent U.S. EPA a letter recognizing that its delay in responding would make coordinating transportation and disposal with U.S. EPA's removal activities impossible. CSXT stated that would be performing the work without assistance from U.S. EPA and would start the work as soon as possible.

On April 30, 2005, U.S. EPA again requested to review the work plan before it was implemented.

U.S. EPA now intends to issue a unilateral administrative order to CSXT to assure that CSXT's cleanup activities will be properly planned, monitored and implemented.

E. Community Characteristics

In Michigan, the low-income percentage is 29% and the minority percentage is 18%. To meet the Environmental Justice (EJ) concern criteria, the area within 1 mile of the Site must have a population that is twice the state low-income percentage and/or twice the state minority percentage. That is, the area must be at least 58% low-income and/or 36% minority. At this Site, the low-income percentage is 51% and the minority percentage is 23% as determined by Arcview 3.0 EJ analysis. Therefore, this Site does not meet the Region's EJ criteria based on demographics as identified in "Region 5 Interim Guidelines for Identifying and Addressing a Potential EJ Case, June 1998."

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

The conditions on CSXT's rail line at the N-Forcer Site present an imminent and substantial threat to the public health, or welfare, and the environment, and meet the criteria for a time-critical removal action provided for in the National Contingency Plan (NCP), Section 300.415, Paragraph (b)(2). These criteria include, but are not limited to, the following:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances;

As documented by soil samples, the concentrations of asbestos found in the surface soil show a human exposure pathway exists. Because the asbestos is at the surface and trains frequently pass through the area, the potential exists for asbestos to be aerosolized.

The health hazards presented by LA and LA-contaminated materials are described in detail in the Health Consultation prepared for the Site by the MDCH on behalf of ATSDR. MDCH and ATSDR recommended taking measures to eliminate or reduce future exposures to LA contamination in on-Site soils. The findings are summarized in the February 27, 2005, Action Memorandum for the N-Forcer Site. Winchite, richterite, ferro-edenite, and other Libby type amphibole asbestos forms are hazardous substances under CERCLA.

(ii) High levels of hazardous substances in soils largely at or near the surface, that may migrate;

Asbestos is visible on the surface on CSXT's property, and could be reaerosolized and transported off-site by vehicles, trains, and pedestrian traffic.

Currently U.S. EPA has not established an asbestos level in soil below which an exposure does not pose a risk. MDEQ has identified an asbestos cleanup criteria of 1% based on detection limits, which is a default to the "target detection limit." U.S. EPA has determined that in certain settings, concentrations of less than 1% posed unacceptable inhalation risks when subject to disturbance.

(iii) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

Wind, particularly in dry summer months, can also lead to migration of asbestos fibers from contaminated surfaces. Rainfall and snow melt would also tend to wash the fibers off CSXT's property and on to nearby property. Migration of asbestos back onto other portions of the N-Forcer Site could compromise U.S. EPA's removal action.

(iv) The availability of other appropriate Federal or State response mechanisms to respond to the release;

No other Local, State, or Federal agency is in the position or currently has the resources to independently oversee an effective response action to address the on-going threats presented on CSXT's property. U.S. EPA will conduct its actions in cooperation with State and local authorities to the extent practicable. ATSDR, MDCH, and MDEQ have requested U.S. EPA assistance

IV. ENDANGERMENT DETERMINATION

The fibrous minerals found on CSXT's property are LA amphibole asbestos. Asbestos can cause asbestosis and is a recognized human carcinogen, causing lung cancer and mesothelioma, a lethal neoplasm of the lining of the chest and abdominal cavities. Cancer of the larynx and esophageal lining has also been associated with exposure to asbestos. Commercial forms of asbestos have been found to be carcinogenic in experimental animals. The ATSDR and MDCH have recommended actions to remove the threat and close the human exposure pathways.

Given the Site conditions, the nature of the hazardous substance on-Site, and the potential exposure pathways described in Sections II and III above, actual and threatened releases at and from the Site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare, and the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

The OSC proposes the following actions to be undertaken by CSXT to mitigate the potential threats posed by the presence of hazardous substances:

1. Develop and implement a Health and Safety Plan;
2. Develop, submit for U.S. EPA approval, and implement a work plan to locate, excavate and remove LA-contaminated soils and surfaces to a maximum depth of 18 inches or otherwise prevent exposure from areas contaminated with $\geq 1\%$ asbestos or which may pose an inhalation hazard;
3. Dispose of contaminated soils at a U.S. EPA-approved off-site disposal facility in accordance with the U.S. EPA Off-Site Rule (40 CFR §300.440);
4. Perform personal air sampling and ambient air sampling during removal activities;
5. Implement engineering measures to control dust during the cleanup;

6. Install a recognizable marker at the bottom of the excavated area prior to backfill if asbestos remains;
7. Restore the property where the removal actions occur to its previous condition to the extent practicable.

It is important to note that U.S. EPA does not assert that soil concentration of less than 1% LA are necessarily safe or acceptable, and in appropriate circumstances, soils with less than 1% LA may be removed under the current response action. Depending on the accessibility and frequency of exposure, U.S. EPA may direct removal or isolation of soils containing less than 1% LA.

This cleanup is being conducted as a Time-Critical Removal Action. A letter was sent to Steven Kitler of MDEQ on November 4, 2004, asking the State to identify ARARs. Identified Federal and State ARARs will be complied with to the extent practicable.

The removal action will be conducted in a manner not inconsistent with the NCP. The OSC has initiated planning for provision of post-removal Site control consistent with the provisions of Section 300.415(l), of the NCP. Elimination of surface threats is, however, expected to minimize the need for post-removal Site control.

All hazardous substances, pollutants, or contaminants removed off-site pursuant to this removal action for treatment, storage, and disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 C.F.R. § 300.440.

The response actions described in this memorandum directly address the actual or threatened release of a hazardous substance, or of a pollutant, or of a contaminant which poses an imminent and substantial endangerment to public health, welfare, or the environment. These response actions do not impose a burden on affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

If action is delayed, potential public health risks posed by asbestos fibers will remain and may be aggravated or increased through further dispersal.

VII. OUTSTANDING POLICY ISSUES

Asbestos removals have been completed in Region 5, and around the country at removal sites under Section 300.415 of the NCP. Because no national asbestos standards for soil exist, U.S. EPA is consulting with ATSDR and MDCH.

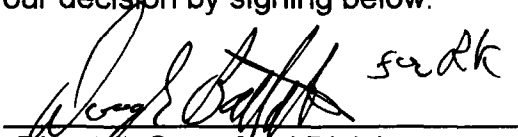
Because of the potentially broad impact of the vermiculite ore with high levels of LA, Region 5 has been coordinating with U.S. EPA Headquarters and other regions to assure a consistent approach to LA issues.

VIII. ENFORCEMENT

U.S. EPA plans to issue an administrative order to CSXT requiring it to implement the selected removal actions on its property. As the current owner of the relevant portion of the Site and as a party that may also be responsible for disposal of asbestos contamination on its property, U.S. EPA believes that CSXT is liable for the cleanup activities under Section 107 of CERCLA, 42 U.S.C. §9607.

IX. RECOMMENDATION

This decision document represents the selected Removal Action for CSXT's property at the N-Forcer Site. This response action has been developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site meet the NCP §300.415(b)(2) criteria for a Removal Action, and your approval is recommended. You may indicate your decision by signing below.

APPROVE: 
Director, Superfund Division

Date: 5/19/05

DISAPPROVE: _____
Director, Superfund Division

Date: _____

Enforcement Addendum

Attachments:

- Attachment 1 - Administrative Record Index
- Attachment 2 - Site Assessment
- Attachment 3 - N-Forcer Action Memo

cc: D. Chung, U.S. EPA, 5203-G
M. Chezik, U.S. DOI, w/o Enf. Addendum
Steven E. Chester, Director, Michigan DEQ, w/o Enf. Addendum
Steve Kitler, Michigan DEQ, w/o Enf. Addendum
Michael Cox, Attorney General, Michigan, w/o Enf. Addendum

bcc: M. Colvin, U.S. EPA, MRS-10J, w/o Enf. Addendum
R. Woodfork, U.S. EPA, SE-5J
A. Marouf, U.S. EPA, SR-6J, w/o Enf. Addendum
L. Nachowicz, U.S. EPA, SE-5J
J. El-Zein, U.S. EPA, SE-GI
M. Gorier, U.S. EPA, SE-5J
M. Johnson, ATSD-4J, w/o Enf Addendum
W. Messenger, U.S. EPA, SE-5J
T. Krueger, C-14J
B. Kelly, U.S. EPA, SE-GI
Public Affairs, P-19J, w/o Enf. Addendum
ERB Reading File, (C. Beck), U.S. EPA, SE-5J, w/o Enf. Addendum
ERB Delivery Order File, (C. Norman), U.S. EPA, SE-5J, w/o Enf. Addendum
Record Center, (SMR-7J)
Contracting Officer, U.S. EPA, MCC-10J, w/o Enf. Addendum

ENFORCEMENT ADDENDUM
N-FORCER SITE
DEARBORN, WAYNE COUNTY, MICHIGAN

MAY 2005

ENFORCEMENT CONFIDENTIAL
NOT SUBJECT TO DISCOVERY

The railroad tracks are adjacent to the N-Forcer Site (WRG, Henn Street Facility, and Dearborn Plant and N-Forcer Site) located at 14300 Henn Street, Dearborn, Wayne County, Michigan.

Shipping records from W.R. Grace showed that the plant processed about 206,055 tons of vermiculite ore from Libby, Montana, from 1966 to 1988. The processing of vermiculite from Libby at WRG likely started at least 10 years prior to 1966. It became known that vermiculite ore mined from Libby was contaminated with asbestos fibers, including the amphibole asbestos varieties tremolite and actinolite, as well as the related fibrous asbestiform minerals winchite, richterite, and ferro-edenite.

Studies throughout the 1980s indicate that vermiculite workers showed increased rates of asbestos-related respiratory diseases. The WRG Dearborn plant is being studied as part of the National Asbestos Exposure Review (NAER) due to the high volume of vermiculite ore processed and the high levels of Libby asbestos fibers likely released from the exfoliation process.

CSXT or its predecessor transported the asbestos-tainted vermiculite to the N-Forcer Site. Asbestos has been documented on CSXT's property adjacent to the N-Forcer site. It appears the material was spilled during loading and unloading.

Because CSXT is a potentially responsible party, and due to the sensitivity and difficulty of excavation activity in the vicinity of railroad tracks, EPA has repeatedly attempted to have CSXT perform the cleanup. To date, CSXT has expressed its willingness to do the work, but has been dragging its feet. EPA will now issue a UAO to compel CSXT to cleanup asbestos on their property on a timely basis, with more accountability to EPA. The case team believes that CSXT will comply with the UAO.

MAY 17 2005

ACTION MEMORANDUM

SUBJECT: **ENFORCEMENT ACTION MEMORANDUM** - Determination of Threat to Public Health and the Environment and Selection of a Time-Critical Removal Action at the N-Forcer Site in Dearborn, Wayne County, Michigan (Site ID #B55P)

FROM: Brian Kelly, On-Scene Coordinator
Emergency Response Section 1

TO: Richard C. Karl, Director
Superfund Division

THRU: Linda Nachowicz, Chief
Emergency Response Branch

I. PURPOSE

The purpose of this Memorandum is to document the determination: (1) of an imminent and substantial threat to public health, welfare, and (2) of the need to conduct a time-critical removal action to abate that threat on the railroad tracks adjacent to the former W.R. Grace facility at 14300 Henn Street, Dearborn, Michigan. The railroad tracks are owned by CSX Transportation, Inc. (CSXT). It is believed CSXT or its predecessor transported the asbestos-tainted vermiculite to the former W.R. Grace facility. Because the railroad track property contains contamination associated with the former W.R. Grace facility originally defined as the N-Forcer Site, the railroad tracks are now also considered part of that Site.

The proposed removal action is necessary to mitigate the immediate threat to public health posed by the presence of fibrous amphibole Libby Asbestos (LA) in all its forms. The LA contamination is the result of, but not limited to, expansion of LA-tainted vermiculite at the N-Forcer site and spills from rail transportation of that vermiculite.

The response action proposed will mitigate the threats by: identifying surface and subsurface areas contaminated with LA; and removing LA from surface and subsurface areas where the LA is present at levels above 1% or which may pose an inhalation hazard.

REGION 5 CORRESPONDENCE SIGN-OFF									
STAFF	Preparer	Section Secretary	Section Chief	Branch Secretary	Branch Chief	Division Secretary	Division Director	ORC	Regional Admin.
INITIAL	AKB/ea	JK	RLH/B		RM		WBS/RK	SL	BR/ea
DATE	5/11/05	5/11/05	5/11/05		5/17/05		5/17/05	5/13	5/16

**REMOVAL PROGRAM
ACTION MEMORANDUM
ROUTING SLIP**

N-Forcer Site in Dearborn, Wayne County, Michigan (Site ID #B55P)

Don't forget to sign the yellow!

- 1) ON-SCENE COORDINATOR (MC SE-GI) Robert H. Buckley 5/11/05
(Assures that Enforcement Confidential Addendum from the Enforcement Specialist is included; the Administrative Record (AR) Documents are available and the draft AR Index is included)
- 2) ADMINISTRATIVE RECORDS COORDINATOR (MC SMR-7J) Jan Pfundheller 5/13/05
(Jan Pfundheller: Assures that the AR is complete and the "Official AR Index" is included....1-day turnaround)
- 3) SECRETARY, RS I (MC SE-GI) Gracy Johnson 5/11/05
(RS-I Secretary (Grosse Ile) will mail AM to RS-III Secretary for tracking purposes...1-day turnaround)
- 4) OFFICE OF REGIONAL COUNSEL: (C-14J)
STAFF ATTORNEY (T. Krueger) T. Krueger 5/13/05
ORC SUPERVISOR (D. Barber) D. Barber 5/11/05
(3-day turnaround on this document per the ORC-WMD Memorandum of Understanding)
- 5) CHIEF, RS I (MC SE-GI) Robert H. Buckley 5/10/05
(3-day turnaround)
- 6) CHIEF, ERB (MC SE-5J)(L. Nachowicz) L. Nachowicz 5/17/05
(3-day turnaround)
- 7) ERB SECRETARY (LOG-OUT)(MC SE-5J) _____
(1-day turnaround)
- 8) DIRECTOR, SUPERFUND DIVISION (Rick Karl) Rick Karl 5/17/05
(MC S-6J)
- 9) FINAL PROCESSING: MC SE-5J
TO RS-II SECRETARY (For RS-II Action Memos)
TO RS-III SECRETARY (For RS-I and RS-III Action Memos)
(Copy to ERB CERCLIS Coordinator)

(Original Action Memo, yellow copy, and this sheet are filed in ERB Site File. Photocopies of signed original go to OSC and to D.O. File (with D.O. and P.R.); bcc's are distributed.)
(Revised 11/19/97. Previous versions obsolete.)